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(erroneously sued as "Allstate Property
9 and Casualty Insurance Company")

10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

12 MATTHEW POTURICH AND
TERESA POTURICH,

13 Plaintiffs,

14 v.

15 ALLSTATE INSURANCE
16 COMPANY, ALLSTATE PROPERTY
AND CASUALTY INSURANCE
17 COMPANY, and DOES 1 through 50,
inclusive,

18 Defendants.

Case No. 5:15-cv-00081-GW-KKx

The Hon. Kenly Kiya Kato
Courtroom 3/4 Third Floor

**ALLSTATE'S NOTICE OF
MOTION TO COMPEL
PLAINTIFFS' DEPOSITIONS AND
MOTION FOR SANCTIONS**

Date: September 3, 2015

Time: 10:00 a.m.

Dept.: Courtroom 3/4

Complaint Filed: December 12, 2014

Trial Date: January 12, 2016

1 **TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on September 3, 2015, at 10:00 a.m., or as
3 soon thereafter as this matter may be heard in Courtroom 3/4 Third Floor of the
4 above-captioned court, located at 3470 Twelfth Street, Riverside, CA 92501,
5 defendant Allstate Insurance Company ("Allstate") will and hereby does move the
6 Court to order the following:

- 7 (1) Plaintiffs must appear for their depositions on August 18 and 19, 2015;
8 (2) Plaintiffs shall pay sanctions to Allstate in the amount of \$3,960.40 as a
9 result of Plaintiffs' failure to appear at their depositions and to comply
10 with court rules; and
11 (3) Alternatively, Plaintiffs are precluded from offering any testimony in
12 support of their claims and further precluded from offering any
13 documents requested by Allstate in the deposition notices that Plaintiffs
14 may otherwise offer in support of their claims.

15 This Motion is made pursuant to Federal Rules of Civil Procedure Rules 30
16 and 37, on the basis that Plaintiffs failed to confirm their appearance at properly
17 noticed depositions, failed to appear at those depositions, and failed to respond to
18 Allstate's meet and confer efforts in rescheduling the depositions. Consequently,
19 Allstate requests that this Court order the following:

- 20 (1) Plaintiffs must appear for their depositions on August 18 and 19, 2015;
21 (2) Plaintiffs shall pay sanctions to Allstate in the amount of \$3,960.40 as a
22 result of Plaintiffs' failure to appear at their depositions and to comply
23 with court rules; and
24 (3) Alternatively, Plaintiffs are precluded from offering any testimony in
25 support of their claims and further precluded from offering any
26 documents requested by Allstate in the deposition notices that
27 Plaintiffs may otherwise offer in support of their claims.
28

Local Rule 37-1 Meet and Confer Efforts:

Pursuant to Local Rule 37-1, Allstate attempted to contact Plaintiffs' counsel prior to noticing Plaintiffs' depositions and received no response. (Declaration of Christina Ding ¶¶ 3-1313, Ex. 1-9.) After noticing Plaintiffs' depositions for July 29 and 30, 2015, Allstate attempted to confirm Plaintiffs' appearances on two separate occasions. Less than 24 hours before the noticed deposition of Plaintiff Matthew Poturich, Plaintiffs' counsel informed Allstate that she was ill and would not be able to attend the depositions. Plaintiffs did not appear for their properly noticed depositions. Despite offering to reschedule, Plaintiffs' counsel has not responded to Allstate's attempts to reschedule the depositions as of the filing of this motion.

The Motion is based on this Notice of Motion and Motion, the attached Memorandum of Points and Authorities, the attached Declaration of Christina Ding filed concurrently herewith, the attached Exhibits, the pleadings and records on file in this action, other matters of which the Court may take judicial notice, and such matters as may be presented at the hearing on the Motion.

Dated: August 5, 2015 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By s/ Christina Ding
CHRISTINA DING

Attorneys for Allstate Insurance Company
(erroneously sued also as Allstate Property and
Casualty Insurance Company)